

City of Chicago Richard M. Daley, Mayor

Board of Ethics

Dorothy J. Eng Executive Director

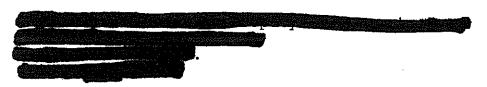
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Room 303 320 North Clark Street Chicago, Illinois 60610 (312) 744-9660 August 14, 1991

CONFIDENTIAL



RE: Case No. 91059.A, ADVISORY OPINION

Dear ( )

On July 29, 1991, you requested an opinion from Ethics regarding the Board of employment of Department A employees. Specifically, you sought a ruling concerning Mr. A an employee for the dept. works for a company called Co. B a company that hires out guards to various venues or businesses You also sought a ruling as to whether any Dept. A employers may You concerned guards were that these situations might constitute conflict interests.

In both situations, the Board determines that the employment is in violation Governmental Ethics Ordinance. The Board recommends that the Dept, A employees cease acting as quarus and that Mak X cease the services he performs for Co. B. thank you for your concern in assuring that your employees abide by the ethical standards embodied in the Governmental Ethics Ordinance. The Board provides its analysis below.

Mr. X is employed by the City of Chicago as an employee in the Depurtment A In this position,  $M \cap X$ assigned by a superior officer in the dept. to 🕨 buildings ( INSpect assure that they comply with the typical day, X will report to the and receive information on the buildings he is tolinspect. On the site, guided through the building by the owner building engineer and will note any code violations. Upon returning to the dept. I, he will file reports on those buildings that he inspected, noting the violations. Final action in these



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matters is undertaken by the and the

outside of his City job, Max works with Co. B, a company which, among other activities, hires out to various venues or businesses

Guards are required by Ordinance, Municipal Code § and are licensed by Their duties, as described in the Municipal Code, are:

According to the Municipal Code, any person may become a guard by obtaining a license. (Municipal Code § 1) It is not required that the applicant have any experience.

You explained that several of the guards that (0.8 employs are also employees in Dopt A

You were concerned that an employee would be placed in a conflict of interests situation if he or she was assigned to inspect a building for which he or she also worked as a guard. In your opinion, the dual employment of Dept. A employees as guards constituted a serious problem.

You requested a Board opinion on two issues:

a Dept. A employee , work outside his City job hiring guards to various venues for Co. B?

ISSUE 2: Under the Governmental Ethics Ordinance, can Dept. A employees guards work outside their City jobs as

Ordinance, can Mr. x a Dept. A employee to work outside his City job hiring guards to

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various venues for  $\widehat{\text{Co.B}}$ ? The primary Ordinance sections involved are sections 2-156-030 and 2-156-080 (a), dealing with improper influence and conflict of interests respectively:

Section 2-156-030: No official or employee shall make, participate in making or in any way attempt to use his position to influence any City governmental decision or action in which he knows or has reason to know that he has any economic interest distinguishable from its effect on the public generally.

Section 2-156-080(a): No official or employee shall make or participate in the making of any governmental decision with respect to any matter in which he has any economic interest distinguishable from that of the general public.

These sections would prohibit a City employee from participating in, or trying to use his or her position to influence, a governmental decision or action in which he or she has an economic interest. Therefore, if the employee would receive an economic interest by virtue of his or her outside employment, and that economic interest is affected by his or her government decision, then a conflict of interests arises.

It is the determination of the Board that any time Mr. X is called upon to inspect a building for which (0.B) provides services, he will be involved in influencing a governmental decision in which he has an economic interest distinguishable from the general public. Co. B's 'income from providing quards depends upon certain venues being judged safe, under the City's codes, the Without there is need for no 1 guards under Municipal Code and no business for Co. B .

You explained that an inspector in your  $\alpha^{\varrho} \cap \gamma^{\varrho}$  may not turn down an assignment and that you will not institute a policy to allow inspectors to recuse themselves from an inspection. Since recusal is not an option, there is no way for  $\widehat{M_{V, \chi}}$  to avoid a conflict of interests if he continues to work for  $\widehat{Co}$ .  $\widehat{B}$  as at any time he may be assigned to inspect a building serviced by  $\widehat{Co}$ .

it is the determination of the Board that Mr. X's dual employment with the dept. and with

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Co. B is prohibited by the Governmental Ethics Ordinance.

Issue 2: Under the Governmental Ethics Ordinance, can Dept. A work outside their City jobs as work outside their City jobs as guards. In the question of improper influence and conflict of interests, the above analysis regarding Mr. X's outside employment also applies to those Dept. A who are concurrently employed by Lo. B as guards. If at any time such employees inspect a building for which they also work as a guard they will face the same conflict of interests as described in Mr. X's case.

CONCLUSION: In light of the above analysis, the Board rules that Mr. A should cease his activities with (0.8, as they are prohibited by sections 2-156-030 and 2-156-080(a) of the Governmental Ethics Ordinance. The Board further rules that the dual employment of Dept. A employees as guards is prohibited by the above sections and should therefore be discontinued.

Our determination in this case is based on the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion. Other rules or laws may apply to this situation. We note that a City department may adopt restrictions that are more stringent than those restrictions in this Ordinance.

Again, the Board appreciates your concern in assuring that your employees comply with the ethical standards embodied in the Governmental Ethics Ordinance. We enclose the Board's procedural rules that apply after it renders a decision. If you have any further questions, please do not hesitate to contact us.

Sincerely

Al Hofeld Chairman

enclosure

cc: Kelly Welsh, Corporation Counsel

rct/91059.A02

<sup>&#</sup>x27; If the facts presented in this opinion are incorrect or incomplete, please notify the Board immediately, as any change in the facts may alter our opinion.

## NOTICE OF RECONSIDERATION AND RELIANCE

Reconsideration: This advisory opinion is based on the facts outlined in this opinion. If there are additional material facts or circumstances that were not available to the Board when it considered this case, you may request reconsideration of the opinion. A request for reconsideration must (1) be submitted in writing, (2) explain the material facts or circumstances that are the basis of the request, and (3) be received by the Board of Ethics within fifteen days of the date of this opinion.

Reliance: This advisory opinion may be relied upon by (1) any person involved in the specific transaction or activity with respect to which this opinion is rendered and (2) any person involved in any specific transaction or activity that is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.